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असाधारण

EXTRAORDINARY

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PART II — Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on 12th August, 2005:—

BILL No. LXXIX OF 2005

A Bill to provide for the regulation of the profession and practice of pharmacy in Indian medicine and Homoeopathy and for that purpose to constitute Pharmacy Councils and for matters connected therewith.

Be it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Indian Medicine and Homoeopathy Pharmacy Act, 2005. Short title, extent and commencement.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, in this behalf and different dates may be appointed for different States and for different provisions of this Act, and any reference in any provision to the commencement of this Act shall, in relation to any State be construed as reference to the commencement of that provision in such State.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) “Board” means a Board, Council, Examining Body or Faculty of Pharmacy of Indian medicine or Homoeopathy, by whatever name called, constituted by the State Government under any law for the time being in force regulating the award of Pharmacy qualifications in Indian medicine or Homoeopathy;

(b) “Central Pharmacy Council” means the Central Pharmacy Council of Indian medicine and Homoeopathy constituted under section 3;

(c) “Homoeopathy” means the Homoeopathic system of medicine and includes the use of Biochemic remedies;

(d) “Indian medicine” means the system of Indian medicine commonly known as Ashtang Ayurveda, Siddha or Unani Tibb whether supplemented or not by such modern advances as the Central Pharmacy Council may declare by notification from time to time;

(e) “Institution” means any Institution or college within India which imparts teaching or training leading to award of Degrees, Diplomas or certificates in pharmacy of Indian medicine or Homoeopathy by Board or University empowered by a State or Central legislation and includes such Institution out of India as recognised by the Central Pharmacy Council;

(f) “prescribed” means prescribed by rules made under this Act;

(g) “recognised qualification” means any of the qualifications of Pharmacy of Indian medicine or Homoeopathy included in the Schedules to this Act;

(h) “register” means a register of pharmacists prepared and maintained under Chapter V;

(i) “registered pharmacist” means a person whose name is for the time being registered in a register of a State in which he is for the time being residing or carrying on his profession or business of Pharmacy;

(j) “registered practitioner” means a person registered as registered practitioner under the Indian Medicine Central Council Act, 1970 or the Homoeopathy Central Council Act, 1973; 48 of 1970.
59 of 1973.

(k) “regulation” means regulation made under this Act;

(l) “State” includes a Union territory, and “State Government”, in relation to a Union territory, means the Administrator of that Union territory appointed by the President under article 239 of the Constitution;

(m) “State Pharmacy Council” means a State Pharmacy Council of Indian Medicine and Homoeopathy constituted under section 23, and includes a Joint State Pharmacy Council constituted in accordance with an agreement under section 24;

(n) “University” means a University defined under clause (f) of section 2 of the University Grants Commission Act, 1956 and includes an institution deemed to be a University under section 3 of that Act. 3 of 1956.

(2) Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir shall, in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.

CHAPTER II

THE CENTRAL PHARMACY COUNCIL AND ITS COMMITTEES

Constitution
of Central
Pharmacy
Council.

3. (1) The Central Government shall, by notification in the Official Gazette, constitute a Central Pharmacy Council of Indian medicine and Homoeopathy consisting of the following members, namely:—

(a) one member, from each State in which a State Register of Pharmacy of Indian medicine and Homoeopathy is maintained to be elected from amongst themselves by persons enrolled on the Register of Pharmacists of Indian medicine and Homoeopathy:

Provided that until such members are elected under this clause, the Central Government shall nominate ten members being persons practising or teaching pharmacy, of whom at least two each from Ayurveda, Siddha, Unani and Homoeopathy;

(b) one member from each University in which faculty or department of pharmacy of Indian medicine and Homoeopathy is established, to be elected from amongst themselves by the members of Faculty or Department:

Provided that until any such faculty or department of pharmacy of Indian medicine and Homoeopathy is established in at least three Universities, the Central Government may nominate not exceeding five members from amongst the teaching staff of institutions of pharmacy in Indian medicine and Homoeopathy;

(c) five members from the experts of pharmacy in Ayurveda, Siddha, Unani or Homoeopathy, as far as possible from different states, to be nominated by the Central Government;

(d) four members from the pharmaceutical chemists from the manufacturing units, one each from Ayurveda, Unani, Siddha and Homoeopathy, to be nominated by the Central Government;

(e) the Additional Drug Controller, Indian medicine and Homoeopathy, Government of India—*ex officio*;

(f) the Head of the Department of Pharmacy, National Institute of Homoeopathy, Ayurveda, Siddha and Unani, Kolkatta—*ex officio*;

(g) the Director, Homoeopathy Pharmacopoeia Laboratory, Ghaziabad—*ex officio*;

(h) the Director, Pharmacopoeial Laboratories for Indian medicine, Ghaziabad—*ex officio*; and

(i) one member each from persons practising pharmacy in Ayurveda, Siddha, Unani and Homoeopathy, to be nominated by the Central Government.

4. The Central Pharmacy Council shall be a body corporate by the name of the Central Pharmacy Council of Indian Medicine and Homoeopathy having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

Incorporation
of Central
Pharmacy
Council.

5. (1) The President of the Central Pharmacy Council shall be elected by the members of the Central Pharmacy Council from amongst themselves in such manner as may be prescribed by the Central Government.

President and
Vice-
President of
Central
Pharmacy
Council.

(2) There shall be two Vice-Presidents, one each for the Indian medicine and the Homoeopathy, who shall be elected from amongst themselves representing the Indian medicine and the Homoeopathy:

Provided that for five years from the date of first constitution of the Central Pharmacy Council, the President and the Vice-Presidents shall be nominated by the Central Government from amongst the members of the Central Pharmacy Council and the President and the Vice-Presidents so nominated shall notwithstanding anything contained in sub-section (1) of section 8, hold office during the pleasure of the Central Government.

6. (1) An election under clause (a) or clause (b) of sub-section (1) of section 3 shall be conducted by the Central Government in accordance with such rules as may be made by the Central Government in this behalf.

Mode of
election.

(2) Where any dispute arises regarding any election to the Central Pharmacy Council, it shall be referred to the Central Government whose decision shall be final.

Qualification
for election.

7. (1) No person shall be eligible for election to the Central Pharmacy Council, unless he possesses any of the Pharmacy qualifications included in Schedule A or Schedule B, is enrolled on any State Register of Pharmacists of Indian medicine and Homoeopathy and resides in the State concerned.

(2) Notwithstanding anything contained in sub-section (1), the qualifications prescribed in that sub-section shall not be applicable to the members nominated by the Central Government.

Term of
office of
President,
Vice-
President and
members of
Central
Pharmacy
Council.

8. (1) The President or a Vice-President or a member of Central Pharmacy Council shall hold office for a term of five years from the date of his election or nomination, as the case may be, or until his successor has been duly elected or nominated, whichever is longer.

(2) A person, who holds or who has held office as President or a Vice-President of the Central Pharmacy Council, shall be eligible for re-election to that office, but only once.

(3) Members of the Central Pharmacy Council shall be eligible for re-election or re-nomination.

(4) A nominated or elected member may at any time resign his membership by writing under his hand addressed to the President, and the seat of such member shall thereupon become vacant.

(5) An elected or nominated member shall be deemed to have vacated his seat if he is absent without excuse, sufficient in the opinion of the Central Pharmacy Council, from three consecutive ordinary meetings of the Central Pharmacy Council or, in the case of a member elected under clause (a) of sub-section (1) of section 3, if he ceases to be enrolled on the concerned State register of pharmacy, or in the case of a member elected under clause (b) of that sub-section, if he ceases to be a member of Faculty or Department of the University concerned.

(6) A casual vacancy in the Central Pharmacy Council shall be filled by election or nomination, as the case may be, and the person elected or nominated to fill the vacancy shall hold office only for the remainder of the term for which the member whose place he takes was elected or nominated.

(7) Where the term of five years referred to in sub-section (1) is about to expire in respect of any member, a successor may be elected or nominated at any time within three months before the said term expires but he shall not assume office until the said term has expired.

Meetings of
Central
Pharmacy
Council.

9. (1) The Central Pharmacy Council shall meet at least twice in a year at such time and place as may be appointed by it.

(2) Unless otherwise provided by regulations, one third of the total number of members of the Central Pharmacy Council shall form a quorum, and all the acts of the Central Pharmacy Council shall be decided by a majority of the members present and voting.

The
Executive
Committee
and other
committees

10. (1) The Central Pharmacy Council shall from amongst its members constitute two Executive Committees, one for the Indian medicine and another for Homoeopathy and such other committees for general or special purposes as the Central Pharmacy Council deems necessary to carry out the purposes of this Act.

(2) (a) The Executive Committee for Indian medicine shall consist of the President, Vice-President, one member to be nominated by the Central Government from amongst the *ex officio* members, and not less than five and not more than seven members to be elected by the Central Pharmacy Council from amongst members of the Indian medicine.

(b) The Executive Committee for Homoeopathy shall consist of the President, Vice-President, one member to be nominated by the Central Government from amongst the *ex officio* members, and not less than five and not more than seven members to be elected by the Central Pharmacy Council from amongst members of the Homoeopathy.

(3) The President and the Vice-President of the Central Pharmacy Council shall be the President and Vice-President respectively of the Executive Committee.

(4) In addition to the powers conferred on and duties imposed upon the Executive Committee by this Act, it shall exercise such powers and discharge such duties as the Central Pharmacy Council may confer or impose upon it by any regulations which may be made in this behalf.

11. (1) The Committee constituted under section 10 shall meet at least twice in a year at such time and place as may be appointed by the Central Pharmacy Council. Meetings of Committees.

(2) Unless otherwise provided by regulations, one-third of the total number of members of the Committee shall form a quorum, and all the acts of the Committee shall be decided by a majority of the members present and voting.

12. The Central Pharmacy Council shall—

- (a) appoint a Registrar who shall also act as Secretary to the Committees;
- (b) employ after prior approval of the Central Government such other officers and employees, as it deems necessary to carry out the purposes of this Act;
- (c) require and take from the Registrar or from any other officer or employee, such security for the due performance of his duties as the Central Pharmacy Council deems necessary; and

Officers and other employees of Central Pharmacy Council.

- (d) with the previous sanction of the Central Government, fix the remuneration and allowances to be paid to the President, the Vice-Presidents and the members of the Central Pharmacy Council and to the members of the committees thereof and determine the conditions of service of the other officers and employees of the Central Pharmacy Council.

13. No act or proceeding of the Central Pharmacy Council or any committee thereof shall be in valid on the ground merely of the existence of any vacancy in, or any defect in the constitution of the Central Pharmacy Council or the committee, as the case may be.

Vacancies in Central Pharmacy Council and Committees thereof not to invalidate acts, etc.

CHAPTER III

RECOGNITION OF PHARMACY QUALIFICATIONS

14. (1) The Central Pharmacy Council may, subject to the approval of the Central Government, by notification in the Official Gazette, make regulations, to be called the Education Regulations, providing for the minimum standard of education required for qualification as a Pharmacist in Indian medicine or Homoeopathy.

Education Regulations.

(2) In particular, and without prejudice to the generality of the foregoing power, the Education Regulations may provide for—

- (a) the nature and period of study and practical training to be undertaken before admission to an examination;
- (b) the equipment and facilities to be provided for students undergoing approved courses of study;
- (c) the subjects of examination and the standards therein to be attained; and
- (d) any other conditions of admission to examinations.

(3) Copies of the draft of the Education Regulations and all subsequent amendments thereof shall be furnished by the Central Pharmacy Council to all State Governments, and the Central Pharmacy Council shall before submitting such regulations or any amendment thereof, as the case may be, to the Central Government for approval under sub-section (1) take into consideration the comments of any State Government received within three months from the furnishing of the copies as aforesaid.

(4) The Education Regulations shall be published in the Official Gazette and in such other manner as the Central Pharmacy Council may direct.

(5) The Executive Committee shall from time to time report to the Central Pharmacy Council on the efficacy of the Education Regulations and may recommend to the Central Pharmacy Council such amendments thereof, as it may think fit.

Recognition
of pharmacy
qualifications
granted by
certain
Institutions
in India.

15. (1) The pharmacy qualifications granted by any University, Board or other Institution in India which are included in the Schedule A shall be recognised pharmacy qualifications for the purposes of this Act.

(2) Any University, Board or Institution in India which grants a pharmacy qualification not included in the Schedule A may apply to the Central Government to have such qualification recognised, and the Central Government, after consulting the Central Pharmacy Council, may, by notification in the Official Gazette, amend the Schedule A so as to include such qualification therein, and any such notification may also direct that an entry shall be made in the last column of the Schedule A against such pharmacy qualification declaring that it shall be a recognised pharmacy qualification only when granted after a specified date.

(3) All declarations under sub-section (2), shall be made by resolution passed at a meeting of the Central Pharmacy Council and shall have effect as soon as they are published in the Official Gazette.

Permission
for establish-
ment of new
pharmacy
college,
course of
study, etc.

16. (1) Notwithstanding anything contained in this Act or any other law for the time being in force, on and from the appointed day,—

(a) no person shall establish a Pharmacy College of Ayurveda, Unani Tibb, Siddha or Homoeopathy; or

(b) no Pharmacy College shall—

(i) open a new or higher course of study or training, including post-graduate course of studies or training, which would enable a student of such course of study or training to qualify himself for the award of any recognised pharmacy qualification; or

(ii) increase its admission capacity in any course of study or training, including a post-graduate course of studies or training,

except with the previous permission of the Central Government obtained in accordance with provisions of this section.

Explanation 1.—For the purposes of this section, “person” includes any University or a trust, but does not include the Central Government.

Explanation 2.—For the purposes of this section, “admission capacity”, in relation to any course of study or training, including post-graduate course of studies or training, in a pharmacy college, means the maximum number of students as may be fixed by the Central Government from time to time for being admitted to such course or training.

(2) (a) Every person or pharmacy college shall, for the purpose of obtaining permission under sub-section (1), submit to the Central Government a scheme in accordance with the provisions of clause (b) and the Central Government shall refer the scheme to the Central Pharmacy Council for its recommendations.

(b) The scheme submitted to in clause (a), shall be in such form and contain such particulars and be preferred in such manner and accompanied with such fee, as may be provided by regulations.

(3) On receipt of a scheme under clause (b) of sub-section (2), the Central Pharmacy Council may obtain such other particulars as may be considered necessary by it from the person or the pharmacy college concerned, and thereafter, it may,—

(a) if the scheme is defective and does not contain any necessary particulars, give a reasonable opportunity to the person or pharmacy college concerned for making a written representation and it shall be open to such person or pharmacy college to rectify the defects, if any, specified by the Central Pharmacy Council; and

(b) consider the scheme, having regard to the factors referred to in sub-section (7), and submit the scheme to the Central Government together with its recommendations thereon within six months from the date of receipt of the reference from the Central Government.

(4) The Central Government may, after considering the scheme and the recommendations of the Central Pharmacy Council under sub-section (3) and after obtaining, where necessary, such other particulars as may be considered necessary by it from the person or pharmacy college concerned and having regard to the factors referred to in sub-section (7), either approve the scheme with such conditions, if any, as it may consider necessary or disapprove the scheme and any such approval shall be a permission under sub-section (1):

Provided that no scheme shall be disapproved by the Central Government except after giving the person or pharmacy college concerned a reasonable opportunity of being heard:

Provided further that nothing in this sub-section shall prevent any person or pharmacy college whose scheme has not been approved by the Central Government to submit a fresh scheme and the provisions of this section shall apply to such scheme, as if such scheme has been submitted for the first time under sub-section (2).

(5) Where, within a period of one year from the date of submission of the scheme to the Central Government under sub-section (2), no order is communicated by the Central Government to the person or pharmacy college submitting the scheme, such scheme shall be deemed to have been approved by the Central Government in the form in which it was submitted, and, accordingly, the permission of the Central Government required under sub-section (1) shall also be deemed to have been granted.

(6) In computing the time-limit specified in sub-section (5), the time taken by the person or pharmacy college concerned submitting the scheme, in furnishing any particulars called for by the Central Pharmacy Council, or by the Central Government, shall be excluded.

(7) The Central Pharmacy Council, while making its recommendations under clause (b) of sub-section (3) and the Central Government, while passing an order, either approving or disapproving the scheme under sub-section (4), shall have due regard to the following factors, namely:—

(a) whether the proposed pharmacy college or the existing pharmacy college seeking to open a new or higher course of study or training, would be in position to offer the minimum standards of education as provided by the education regulation or, as the case may be, under other approved educational regulations approved by the Central Government;

(b) whether the person seeking to establish a pharmacy college or the existing pharmacy college seeking to open a new or higher course of study or training or to increase its admission capacity has adequate financial resources;

(c) whether necessary facilities in respect of staff, equipment, accommodation, training hospital and other facilities to ensure proper functioning of the pharmacy college or conducting the new course of study or training or accommodating the increased admission capacity have been provided or would be provided within the time-limit specified in the scheme;

(d) whether adequate hospital facilities, having regard to the number of students likely to attend such pharmacy college or course of study or training or the increased admission capacity have been provided or would be provided within the time-limit specified in the scheme;

(e) whether any arrangement has been made or programme drawn to impart proper training to students likely to attend such pharmacy college or the course of study or training by persons having the recognised qualifications;

(f) the requirement of manpower in the field of Indian pharmacy in the pharmacy college; and

(g) any other factors as may be provided by regulations.

(8) Where the Central Government passes an order either approving or disapproving a scheme under this section, a copy of the order shall be communicated to the person or pharmacy college concerned.

Qualification
invalid in
contravention
of provisions
of section 16.

17. (1) Where any pharmacy college is established without the previous permission of the Central Government as required under section 16, pharmacy qualification granted to any student of such pharmacy college shall not be a recognised pharmacy qualification for the purposes of this Act.

(2) Where any pharmacy college opens a new or higher course of study or training, including a post-graduate course of study or training, without the previous permission of the Central Government as required under section 16, the pharmacy qualification granted to any student of such pharmacy college on the basis of the increase in its admission capacity shall not be deemed to be a recognised pharmacy qualification for the purposes of this Act.

Recognition
of pharmacy
qualifications
granted by
medical
Institutions
in states or
country with
which there is
scheme of
reciprocity.

18. (1) The Central Pharmacy Council may enter into negotiations with the authority in any State or country outside India, which by the law of such State or country is entrusted with the maintenance of a Register of Pharmacists of Indian medicines or Homoeopathy for settling of a scheme of reciprocity for the recognition of pharmacy qualifications in Indian medicine or Homoeopathy, and in pursuance of any such scheme, the Central Government may, by notification in the Official Gazette, amend the Schedule B so as to include therein any pharmacy qualification which the Central Pharmacy Council has decided should be recognised and any such notification may also direct that an entry shall be made in the last column of the Schedule B against such pharmacy qualification declaring that it shall be recognised pharmacy qualification only when granted after a specified date:

Provided that no person other than a citizen of India possessing such pharmacy qualification shall be deemed to be qualified for registration unless by the law and practice of the State or country in which the pharmacy qualification is granted, the persons of Indian origin holding such pharmacy qualification are permitted to enter and practice the profession of pharmacy in Indian medicine or Homoeopathy.

(2) Where the Council has refused to recommend any pharmacy qualification which has been proposed for recognition by any authority referred to in sub-section (1) and that authority applies to the Central Government in this behalf, the Central Government, after considering such application and after obtaining a report, if any, from the Central Pharmacy Council as to the reasons for any such refusal, may, by notification in the Official Gazette, declare that such pharmacy qualification shall be a recognised qualification and the provisions of sub-section (1) shall apply accordingly.

Rights of
persons
possessing
qualifications
included in
Schedule A or
Schedule B to
be enrolled.

19. (1) Subject to the provisions of this Act, any pharmacy qualification in the Schedule A or Schedule B shall be sufficient qualification for enrolment on any State Register of pharmacy in Indian medicine or Homoeopathy.

(2) No person, other than a pharmacist of Indian medicine or Homoeopathy who possesses a recognised pharmacy qualification and is enrolled on a State Register or the Central Register of Pharmacy—

(a) shall hold office as pharmacist of Indian medicine or Homoeopathy or any other office (by whatever designation called) in Government or in any Institution maintained by a local or other authority;

(b) shall practice pharmacy in Indian medicine or Homoeopathy in any State; and

(c) shall be entitled to sign or authenticate a certificate or any other certificate required by any law to be signed or authenticated by a duly qualified Pharmacist of Indian medicine or Homoeopathy.

(3) Nothing contained in sub-section (2) shall affect,—

(a) the right of a Pharmacist enrolled on a State Register of Pharmacy in Indian medicine and Homoeopathy to practice pharmacy of Indian medicine or Homoeopathy in any State merely on the ground that, on the commencement of this Act, he does not possess a recognised qualification;

(b) the privileges including the right to practice pharmacy of Indian medicine or Homoeopathy conferred by or under any law for the time being in force in any State, as a pharmacist enrolled on a State Register; and

(c) the right of a person to practice pharmacy of Indian medicine or Homoeopathy in a State in which, on the commencement of this Act, a State Register Pharmacy of Indian medicine or Homoeopathy is not maintained if, on such commencement, he has been practicing Pharmacy of Indian medicine or Homoeopathy for not less than five years.

(4) Any person who acts in contravention of any provision of sub-section (2) shall be punished with imprisonment for a term, which may extend to one year, or with fine, which may extend to one thousand rupees, or with both.

20. Every University, Board or Institution in India which grants a recognised pharmacy qualification shall furnish such information as the Central Pharmacy Council may, from time to time, require as to the courses of study and examinations to be undergone in order to obtain such qualification, as to the ages at which such course of study and examinations are required to be undergone and such pharmacy qualification is conferred and generally as to the requisites for obtaining such pharmacy qualification.

Power to
require
information
as to courses
of study and
examinations.

21. (1) The Central Pharmacy Council shall appoint such number of pharmacy inspectors from concerned system as it may deem requisite to inspect any pharmacy college or other institution where education in pharmacy in Indian medicine or Homoeopathy is given, or to attend any examination held by any University, Board or Institution for the purpose of recommending to the Government for recognition of pharmacy qualifications granted by that University, Board or Institution.

Inspectors at
examinations.

(2) The pharmacy inspectors shall not interfere with the conduct of any training or examination but shall report to the Central Pharmacy Council on the adequacy of the standards of pharmacy education including staff, equipment, accommodation, training and other facilities prescribed for giving pharmacy education in Indian medicine or Homoeopathy, as the case may be, or on the sufficiency of every pharmacy examination which they attend.

(3) The Central Pharmacy Council shall forward a copy of any such report to the University, Board or Institution concerned, and shall also forward a copy with the remarks of the University, Board or Institution thereon, to the Central Government.

22. (1) When upon report by the pharmacy inspector it appears to the Central Pharmacy Council,—

Withdrawal
of
recognition.

(a) that the pharmacy courses of study and examination to be undergone in or the proficiency required from candidates at any examination held by any University, Board or Institution, or

(b) that the staff, equipment, accommodation, training and other facilities for instruction and training provided in such University, Board or Institution or in any pharmacy college or other Institution affiliated to the University,

do not conform to the standard provided by the Central Pharmacy Council, it shall make representation to that effect to the Central Government.

(2) After considering such representation, the Central Government may send it to the Government of the State in which the University, Board or Institution situates and the State Government shall forward it along with such remarks as it may choose to make to the University, Board or Institution with an intimation of the period within which the University, Board or Institution may submit its explanation to the State Government.

(3) On the receipt of the explanation or where no explanation is submitted within the period fixed then on the expiry of that period, the State Government shall make its recommendations to the Central Government.

(4) The Central Government after making such further inquiry, if any, as it may think fit, may direct the University, Board or Institution not to allow the students for any pharmacy examination from a specified date in respect of such pharmacy college or that the said pharmacy qualification if granted to students of a specified pharmacy college or Institution affiliated to Board or University shall be recognised pharmacy qualification only when granted before a specified date.

CHAPTER IV

STATE PHARMACY COUNCIL OF INDIAN MEDICINE AND HOMOEOPATHY

Constitution
of State
Pharmacy
Councils.

23. Except where a Joint State Pharmacy Council of Indian Medicine and Homoeopathy is constituted in accordance with an agreement made under section 24, the State Government shall constitute a State Pharmacy Council of Indian Medicine and Homoeopathy consisting of the following members, namely:—

(a) one member each from Indian medicine and Homoeopathy to be elected from among themselves by the registered pharmacists of the respective system of medicine in the State;

(b) one member each from Indian medicine and Homoeopathy to be elected from among themselves by the teaching faculty of the pharmacy college of respective system of medicine;

(c) one member each from the experts of pharmacy of Indian medicine and Homoeopathy, to be nominated by the State Government;

(d) two members each to be elected from among themselves by the pharmaceutical chemists of manufacturing units of Indian medicine or Homoeopathy in the State;

(e) State Drug Controller or his representative looking after the Indian System of Medicine and Homoeopathy; and

(f) Government Analyst dealing with Indian System of Medicine and Homoeopathy under the Drugs and Cosmetics Act, 1940, *ex officio*, or where there is more than one, such one as the State Government may appoint in this behalf: 23 of 1940.

Provided that until such members are elected under clauses (a) and (b) in accordance with the provisions of this Act and the rules made thereunder, the State Government shall nominate five members being persons practising or teaching pharmacy, atleast one each, from each system:

Provided further that where an agreement is made under clause (b) of sub-section (1) of section 24, the agreement may provide that the State Council to serve the needs of the other participating States also shall be augmented by not more than two members, of whom, at least one shall at all times be a person possessing a prescribed degree or diploma in pharmacy or pharmaceutical chemistry or a registered pharmacist, nominated by the Government of each of the said other participating States, and where the agreement so provides, the composition of the State Council shall be deemed to be augmented accordingly.

24. (1) Two or more State Governments may enter into an agreement to be in force for such period and to be subject to renewal for such further periods, if any as may be specified in the agreement, to provide—

Inter-State
agreements.

(a) for the constitution of a Joint State Pharmacy Council of Indian Medicine and Homoeopathy for all the participating States; or

(b) that the State Pharmacy Council of Indian Medicine and Homoeopathy of one State shall serve the needs of the other participating States.

(2) In addition to such matters as are in this Act specified, an agreement under this section may—

(a) provide for the apportionment between the participating States of the expenditure in connection with the State Pharmacy Council of Indian Medicine and Homoeopathy or Joint State Pharmacy Council of Indian Medicine and Homoeopathy;

(b) determine which of the participating State Governments shall exercise the several functions of the State Government under this Act, and the references in this Act to the State Government shall be construed accordingly;

(c) provide for consultation between the participating State Governments either generally or with reference to particular matters arising under this Act; and

(d) make such incidental and ancillary provisions, not inconsistent with this Act, as may be deemed necessary or expedient for giving effect to the agreement.

(3) An agreement under this section shall be published in the Official Gazettes of the participating States.

25. (1) A Joint State Pharmacy Council of Indian Medicine and Homoeopathy shall consist of the following members, namely :—

Composition
of Joint State
Pharmacy
Councils.

(a) one member each from Indian medicine and Homoeopathy, to be elected from among themselves by the registered pharmacists of the respective system of medicine of each participating states in which a State Register of Pharmacy in Indian Medicine and Homoeopathy is maintained;

(b) one member each from Indian medicine and Homoeopathy to be elected from the teaching faculty of the pharmacy college of respective system of medicine of each participating states;

(c) one member each from the experts of pharmacy of Indian medicine and Homoeopathy, to be nominated by the State Government of each participating states;

(d) one member each to be elected from among themselves by the pharmaceutical chemists of manufacturing units of Indian medicine or Homoeopathy of each participating states;

(e) State Drug Controller or his representative looking after the Indian Systems and Homoeopathy of the participating states; and

(f) Government Analyst dealing with Indian System of Medicine and Homoeopathy systems under the Drugs and Cosmetics Act, 1940, *ex officio*, or where there is more than one, such one as the State Government may appoint in this behalf of the participating states:

23 of 1940.

Provided that until such members are elected under clauses (a) and (b) in accordance and the provisions of this Act and the rules made thereunder, the State Government shall nominate five members being persons practising or teaching pharmacy, at least one each from each system.

(2) The agreement may provide that within the limits specified in clauses (a), (b), (c) and (d) of sub-section (1), the number of members to be elected or nominated under those clauses may or may not be the same in respect of each participating State.

(3) Of the members nominated by each State Government under clause (b) of sub-section (1), more than half of such members shall possess a prescribed degree or diploma in pharmacy or pharmaceutical chemistry, or be registered pharmacists.

Incorporation
of State
Pharmacy
Council.

26. Every State Pharmacy Council shall be a body corporate by such name as may be notified by the State Government in the Official Gazette or, in the case of a Joint State Pharmacy Council as may be determined in the agreement, having perpetual succession and a common seal, with power to acquire or hold property both movable and immovable and shall by the said name sue and be sued.

President and
Vice-President
of State
Pharmacy
Council.

27. (1) The President and Vice-President of the State Pharmacy Council shall be elected by the members from amongst themselves:

Provided that for five years from the first constitution of the State Pharmacy Council, the President shall be a person nominated by the State Government who shall hold office at the pleasure of the State Government and where he is not already a member, shall be a member of the State Pharmacy Council in addition to the members referred to in section 30 or section 32, as the case may be.

(2) The President or Vice-President of the State Pharmacy Council shall hold office as such for a term not exceeding five years and not extending beyond the expiry of his term as a member of the State Council, but subject to his being a member of the State Pharmacy Council, he shall be eligible for re-election:

Provided that if his term of office as a member of the State Pharmacy Council of Indian Medicine and Homoeopathy expires before the expiry of the full term for which he is elected as President or Vice-President, he shall, if he is re-elected or re-nominated as a member of the State Pharmacy Council, continue to hold office for the full term for which he is elected as President or Vice-President.

Mode of
elections.

28. Elections under this Chapter shall be conducted in the prescribed manner, and where any dispute arises regarding any such election, it shall be referred to the State Government whose decision shall be final.

Term of
office and
casual
vacancies.

29. (1) Subject to the provisions of this section, a nominated or elected member, other than a nominated President, shall hold office for a term of five years from the date of his nomination or election or until his successor has been duly nominated or elected.

(2) A nominated or elected member may at any time resign his membership by writing under his hand addressed to the President, and the seat of such member shall thereupon become vacant.

(3) A nominated or elected member shall be deemed to have vacated his seat, if—

(i) he is absent without excuse sufficient in the opinion of the State Pharmacy Council from three consecutive meetings of the State Pharmacy Council, or

(ii) he ceases to be a registered pharmacist, in case of a member elected under clause (a) of section 23 or clause (a) of sub-section (1) of section 25, or

(iii) he ceases to be a member of the teaching faculty of the pharmacy college, in case of a member elected under clause (b) of section 23 or clause (b) of sub-section (1) of section 25, or

(iv) he ceases to be enrolled on the concerned State Register of Indian Medicine or of Homoeopathy, in case of a member elected under clause (d) of section 23 or clause (d) of sub-section (1) of section 25.

(4) A casual vacancy in the State Pharmacy Council shall be filled by fresh nomination or election, as the case may be, and the person nominated or elected to fill the vacancy shall hold on, only for the remainder of the term for which the member whose place he takes was nominated or elected.

(5) Members of the State Pharmacy Council shall be eligible for re-nomination or re-election.

30. The State Pharmacy Council may, with the previous sanction of the State Government—

Staff,
remuneration
and
allowances.

(a) appoint a Registrar who shall also act as Secretary and, if so decided by the State Pharmacy Council, Treasurer of the State Pharmacy Council;

(b) appoint such other officers and servants as may be required to enable the State Pharmacy Council to carry out its functions under this Act;

(c) fix the salaries and allowances and other conditions of service of the secretary and other officers and servants of the State Pharmacy Council; and

(d) fix the rates of allowances payable to members of the State Pharmacy Council:

Provided that for the first four years from the first constitution of the State Pharmacy Council, the Registrar shall be a person appointed by the State Government, who shall hold office during the pleasure of the State Government.

31. (1) The State Pharmacy Council shall, as soon as may be, constitute two Executive Committees, one for the Indian medicine such as Ayurveda, Unani and Siddha, and another for Homoeopathy from amongst its members of respective system for general or special purposes, as the Council deems necessary to carry out the purposes of this Act.

The
Executive
Committee.

(2) (a) The Executive Committee of Indian medicine shall consist of President, Vice-Presidents of the State Pharmacy Council, one nominated member of the State Government who shall be member, *ex officio*, and not less than five and not more than seven members who shall be elected by the State Pharmacy Council from amongst members of Indian medicine.

(b) The Executive Committee of Homoeopathy shall consist of President, Vice-President; one nominated member of the State Government who shall be member, *ex officio*, and not less than five and not more than seven members who shall be elected by the State Pharmacy Council from amongst members of Homoeopathy.

(3) The President and the Vice-President of the State Pharmacy Council shall be the President and Vice-President respectively of the Executive Committee.

(4) In addition to the powers conferred on and duties imposed upon the Executive Committee by this Act, it shall exercise such powers and discharge such duties as may be prescribed by the State Government.

(5) A member of the Executive Committee shall hold office as such until the expiry of his term of office as member of the State Pharmacy Council, but, subject to his being a member of the State Pharmacy Council, he shall be eligible for re-election.

(6) The Committee constituted under section 31 shall meet at least twice in a year at such time and place as may be appointed by the State Pharmacy Council.

(7) Unless otherwise prescribed one-third of the total number of members of the committee shall form a quorum, and all the acts of the Committee shall be decided by a majority of the members present and voting.

32. No act or proceeding of the State Pharmacy Council or any committee thereof shall be invalid on the ground merely of the existence of any vacancy in, or any defect in the constitution of the State Pharmacy Council or the committee, as the case may be.

Vacancies in
State
Pharmacy
Council and
Committee
thereof not
to invalidate
acts, etc.

33. (1) The State Pharmacy Council shall furnish such reports, copies of its minutes and of the minutes of the Executive Committee, and abstracts of its accounts to the State Government as the State Government may from time to time require and copies thereof shall be sent to the Central Pharmacy Council.

Information
to be
furnished.

(2) The State Government may publish, in such manner as it may think fit, any report, copy, abstract or other information furnished to it under this section.

CHAPTER V

REGISTRATION OF PHARMACISTS

Preparation
and maintenance of
register.

34. (1) As soon as may be after this Chapter has taken effect in any State, the State Government shall cause to be prepared a register of Pharmacists in Indian medicine and Homoeopathy for the State in the manner hereinafter provided.

(2) The State Pharmacy Council shall as soon as possible after it is constituted assume the duty of maintaining the register in accordance with the provisions of this Act.

(3) The register shall include the following particulars, namely:—

- (a) the full name and residential address of the registered person;
- (b) the date of his first admission to the register;
- (c) his qualifications for registration;
- (d) his professional address, and if he is employed by any person, the name of such person; and
- (e) such further particulars as may be prescribed.

Preparation
of first
register.

35. (1) For the purpose of preparing the first register, the State Government shall by notification in the Official Gazette constitute a Registration Tribunal consisting of three persons having sufficient experience one each from the field of public administration, practice in Indian medicine, and in Homoeopathy, and shall also appoint a Registrar who shall act as Secretary of the Registration Tribunal.

(2) The State Government shall, by the same or a like notification appoint a date on or before which applications for registration, which shall be accompanied by the prescribed fee, shall be made to the Registration Tribunal.

(3) The Registration Tribunal shall examine every application received on or before the appointed date, and if it is satisfied that the applicant is qualified for registration under section 36, shall direct the entry of the name of the applicant on the register.

(4) The first register so prepared shall thereafter be published in such manner as the State Government may direct, and any person aggrieved by a decision of the Registration Tribunal may, within sixty days from the date of such publication, appeal to an authority appointed by the State Government in this behalf by notification in the Official Gazette.

(5) The Registrar shall amend the register in accordance with the decisions of the authority appointed under sub-section (4) and shall thereupon issue to every person whose name is entered in the register a certificate of registration in the prescribed form.

(6) Upon the constitution of the State Pharmacy Council, the register shall be given into its custody, and the State Government may direct that all or any specified part of the application fees for registration in the first register shall be paid to the credit of the State Pharmacy Council.

Qualifications
for entry on
first register.

36. A person who has attained the age of twenty one years shall be entitled on payment of the prescribed fee to have his name entered in the first register if he resides and carries on the business or profession of pharmacy of Indian medicine or Homoeopathy in the State and if he—

- (a) holds a degree, diploma or certificate of Pharmacy of Indian medicine or Homoeopathy issued by an Indian University or a Board, as the case may be, or a prescribed qualification granted by an authority outside India, or

(b) holds a degree, diploma or certificate of an Indian University or a Board other than a degree, diploma or certificate of Pharmacy of Indian medicine or Homoeopathy and has been engaged in the compounding of Ayurveda, Siddha, Unani or Homoeopathy medicines in a hospital or dispensary or other place in which drugs are regularly dispensed on prescriptions of registered practitioners or doing so himself as a registered practitioner or has at least two years experience of standardisation, analysis and testing of Ayurveda, Siddha, Unani or Homoeopathy drugs in a Central Government or State Government Laboratory after acquiring a Post Graduate Qualification in Science;

(c) has passed an examination recognised as adequate by the State Government for compounders or dispensers in Ayurveda, Siddha, Unani or Homoeopathy; or

(d) has been engaged in the compounding or dispensing of Ayurveda, Siddha, Unani or Homoeopathy medicines in a hospital or dispensary or other place in which these are regularly dispensed on prescriptions of registered practitioners for a total period of not less than five years prior to the date notified under sub-section (1) of section 55.

37. (1) After the date appointed under sub-section (1) of section 55 and before the Education Regulations have by or under section 14, taken effect in the State, a person who has attained the age of twenty-one years shall on payment of the prescribed fee be entitled to have his name entered in the register if he resides or carries on the business or profession of pharmacy in the State and if he—

Qualifications
for
subsequent
registration.

(a) satisfies the conditions prescribed with the prior approval of the Central Pharmacy Council, or where no conditions have been prescribed, the conditions entitling a person to have his name entered on the first register as set out in section 36, or

(b) is a registered Pharmacist in Indian Medicine or Homoeopathy in another State, or

(c) possesses a qualification approved under section 19;

Provided that no person shall be entitled under clause (a) or clause (c) to have his name entered on the register unless he has passed a matriculation examination or an examination prescribed as being equivalent to a matriculation examination.

(2) After the Education Regulations have by or under section 14 taken effect in the State, a person shall on payment of the prescribed fee be entitled to have his name entered on the register if he has attained the age of twenty-one years, if he resides, or carries on the business or profession of pharmacy, in the State and if he has passed an approved examination or possesses a qualification approved under section 19 or is a registered Pharmacist in Indian medicine or Homoeopathy in another State.

38. (1) After the date appointed under sub-section (2) of section 35, applications for registration shall be addressed to the Registrar of the State Pharmacy Council and shall be accompanied by the prescribed fee.

Scrutiny of
application
for
registration.

(2) If upon such application the Registrar is of opinion that the applicant is entitled to have his name entered in the register under the provisions of this Act for the time being applicable he shall enter the name of the applicant in the register:

Provided that no person whose name has under the provisions of this Act been removed from the register of any State shall be entitled to have his name entered in the register except with the approval of the State Pharmacy Council recorded at a meeting.

(3) Any person, whose application for registration is rejected by the Registrar, may within three months from the date of such rejection appeal to the State Pharmacy Council, and the decision of the State Pharmacy Council thereon shall be final.

(4) Upon entry in the register of a name under this section, the Registrar shall issue a certificate of registration in the prescribed form.

Renewal of fees.

39. (1) The State Government may, by notification in the Official Gazette, direct that for the retention of a name on the register after the 31st day of December of the year following the year in which the name is first entered on the register, there shall be paid annually to the State Pharmacy Council such renewal fee as may be prescribed, and where such direction has been made, such renewal fee shall be due to be paid before the first day of April of the year to which it relates.

(2) Where a renewal fee is not paid by the due date, the Registrar shall remove the name of the defaulter from the register:

Provided that a name so removed may be restored to the register on such conditions as may be prescribed.

(3) On payment of the renewal fee, the Registrar shall issue a receipt therefor and such receipt shall be proof of renewal of registration.

Entry of additional qualifications.

40. A registered pharmacist shall on payment of the prescribed fee, be entitled to have entered in the register any further degrees or diplomas in pharmacy or pharmaceutical chemistry which he may obtain.

Removal from register.

41. (1) Subject to the provisions of this section, the Executive Committee of the State Pharmacy Council may order that the name of a registered pharmacist shall be removed from the register, where it is satisfied, after giving him a reasonable opportunity of being heard and after such further inquiry, if any, as it may think fit to make,—

(i) that his name has been entered in the register by error or on account of misrepresentation or suppression of a material fact, or

(ii) that he has been convicted of any offence or has been guilty of any infamous conduct in any professional respect which in the opinion of the Executive Committee, renders him unfit to be kept in the register, or

(iii) that a person employed by him for the purposes of his business of pharmacy or employed to work under him in connection with any business of pharmacy has been convicted of any such offence or has been guilty of any such infamous conduct as would, if such person were a registered pharmacist, render him liable to have his name removed from the register under clause (ii):

Provided that no such order shall be made under clause (iii) unless the Executive Committee is satisfied —

(a) that the offence or infamous conduct was instigated or connived at by the registered pharmacist, or

(b) that the registered pharmacist has, at any time during the period of twelve months immediately preceding the date on which the offence or infamous conduct took place committed a similar offence or been guilty of similar infamous conduct, or

(c) that any person employed by the registered pharmacist for the purposes of his business of pharmacy or employed to work under him in connection with any business of pharmacy has at any time during the period of twelve months immediately preceding the date on which the offence or infamous conduct took place, committed a similar offence or been guilty of similar infamous conduct, and that the registered pharmacist had, or reasonably ought to have had, knowledge of such previous offence or infamous conduct, or

(d) that where the offence or infamous conduct continued over a period, the registered pharmacist had, or reasonably ought to have had, knowledge of the continuing offence or infamous conduct, or

23 of 1940.

(e) that where the offence is an offence under the Drugs and Cosmetics Act, 1940, the registered pharmacist has not used due diligence in enforcing compliance with the provisions of that Act in his place of business and by persons employed by him or by persons under his control.

(2) An order under sub-section (1) may direct that the person whose name is ordered to be removed from the register shall be ineligible for registration in the State under this Act either permanently or for such period as may be specified.

(3) An order under sub-section (1) shall be subject to confirmation by the State Pharmacy Council and shall not take effect until the expiry of three months from the date of such confirmation.

(4) A person aggrieved by an order under sub-section (1) which has been confirmed by the State Pharmacy Council may, within thirty days from the communication to him of such confirmation, appeal to the State Government, and the order of the State Government upon such appeal shall be final.

(5) A person whose name has been removed from the register under this section or under sub-section (2) of section 51 shall forthwith surrender his certificate of registration to the Registrar, and the name so removed shall be published in the Official Gazette.

42. The State Pharmacy Council may at any time for reasons appearing to it sufficient order that upon payment of the prescribed fee the name of a person removed from the register shall be restored thereto:

Restoration
to register.

Provided that where the State Government has rejected an appeal against such removal, an order under this section shall not take effect until the State Government has confirmed it.

43. No order refusing to enter a name on the register or removing a name from the register shall be called in question in any Court.

Bar of other
jurisdiction.

44. Where it is shown to the satisfaction of the Registrar that a certificate of registration has been lost or destroyed, the Registrar may, on payment of the prescribed fee, issue a duplicate certificate in the prescribed form.

Issue of
duplicate
certificates of
registration.

45. (1) As soon as may be after the 1st day of April subsequent to the commencement of this Act, the Registrar shall cause to be printed copies of the register as it stood on the said date.

Printing of
register and
evidentiary
value of
entries
therein.

(2) The Registrar shall thereafter cause to be printed as soon as may be after the 1st day of April in each year copies of the annual supplement to the register referred to in sub-section (1), showing all additions to, and other amendments in, the said register.

(3) (a) The register shall be brought up-to-date three months before ordinary elections to the State Pharmacy Council are held and copies of this register shall be printed.

(b) The provisions of sub-section (2) shall apply to the register as so printed as they apply to the register referred to in sub-section (1).

(4) The copies referred to in sub-section (1) or sub-section (2) or sub-section (3) shall be made available to persons applying therefor on payment of the prescribed charge and shall be evidence that on the date referred to in the register or annual supplement, as the case may be, the persons whose names are entered therein were registered pharmacists.

46. (1) A State Pharmacy Council may, with the previous approval of the State Government, appoint Inspectors having the prescribed qualification for the purposes of Chapters IV, V and VII of this Act.

Inspection.

(2) An Inspector may:—

(a) inspect any premises where drugs are compounded or dispensed and submit a written report to the Registrar;

(b) enquire whether a person who is engaged in compounding or dispensing of drugs is a registered pharmacist;

(c) investigate any complaint made in writing in respect of any contravention of this Act and report to the Registrar;

(d) institute prosecution under the order of the Executive Committee of the State Pharmacy Council of Indian medicine and Homoeopathy; and

(e) exercise such other powers as may be necessary for carrying out the purposes of Chapters IV, V and VII of this Act or any rules made thereunder.

(3) Any person wilfully obstructing an Inspector in the exercise of the powers conferred on him by or under this Act or any rules made thereunder shall be punishable with imprisonment for a term which may extend to six months, or with fine not exceeding five thousand rupees, or with both.

(4) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

CHAPTER VI

THE CENTRAL REGISTER OF PHARMACIST OF INDIAN MEDICINE AND HOMOEOPATHY

Central
Register of
Pharmacist
of Indian
medicine and
Homoeopathy.

47. (1) The Central Pharmacy Council shall cause to be maintained in the manner provided by regulations, a register of pharmacists in separate parts for each of the system of Indian medicine and Homoeopathy to be known as the Central Register of Pharmacist of Indian medicine and Homoeopathy which shall contain —

(a) in part I, the names of all persons who are for the time being enrolled on any State Register of Pharmacist in Indian Medicine or Homoeopathy and possess any of the recognised pharmacy qualifications; and

(b) in part II, the names of all persons, other than those included in part I, who are for the time being enrolled on any State Register of Pharmacist in Indian medicine or Homoeopathy.

(2) It shall be the duty of the Registrar of the Central Pharmacy Council to keep and maintain the Central Register of Pharmacist in accordance with the provisions of this Act and of any orders made by the Central Government, and from time to time to revise the register and publish it in such other manner as may be prescribed.

Supply of
copies of State
Register of
Pharmacist.

48. Each State Pharmacy Council shall supply to the Central Pharmacy Council three printed copies of the State Register of Pharmacist of Indian medicine and Homoeopathy as soon as may be after the commencement of this Act and subsequently after the first day of April of each year and each State Council shall inform the Central Pharmacy Council without delay of all additions to and other amendments in the State Pharmacy register made from time to time.

Registration
in the Central
Register of
Pharmacist.

49. The Registrar of the Central Pharmacy Council may on receipt of the report of registration of a person in a State Register of Pharmacist of Indian medicine and Homoeopathy or on application made in the manner provided in the regulation, by any person, enter his name in the Central Register of Pharmacist of Indian medicine and Homoeopathy provided that the Registrar is satisfied that the person concerned is eligible under this Act for such registration.

Professional
conduct.

50. (1) The Central Pharmacy Council may provide by regulation the standards of professional conduct and etiquette and a code of ethics for Pharmacist of Indian medicine and Homoeopathy.

(2) Regulations made by the Central Pharmacy Council under sub-section (1) may specify which violations thereof shall constitute infamous conduct in any professional respect that is to say, professional misconduct and such provision shall have effect notwithstanding anything contained in any law for the time being in force.

51. (1) If the name of any person enrolled on a State Register of Pharmacist of Indian medicine and Homoeopathy is removed therefrom in pursuance of any power conferred by or under any law relating to registration of Pharmacist for the time being in force in any State, the Central Pharmacy Council shall direct the removal of the name of such person from the Central Register of Pharmacist.

Removal of names from the Central Register of Pharmacist.

(2) Where the name of any person has been removed from a State Register on any ground other than that he is not possessed of the requisite Pharmacy qualifications or where any application by the said person for restoration of his name to the State Register of Pharmacist of Indian medicine and Homoeopathy has been rejected, he may appeal in the prescribed manner and subject to such conditions, including conditions as to the payment of a fee, as may be prescribed to the Central Government whose decision, which shall be given after taking opinion of the Central Pharmacy Council, shall be binding on the State Government and on the authorities concerned with the preparation of the State Register.

52. (1) Subject to the conditions and restrictions laid down in this Act regarding practice of Pharmacy in Indian medicine or Homoeopathy by persons possessing certain recognised Pharmacy qualifications, every person whose name is for the time being borne on Part I of the Central Register of Pharmacist shall be entitled according to his qualifications to practice Pharmacy in Indian medicine or Homoeopathy in any part of India and to recover in due course of law in respect of such practice any expenses, charges in respect of medicaments of other appliances or any fees to which he may be entitled.

Privileges of persons who are enrolled on the Central Register of Pharmacist of Indian medicine and Homoeopathy.

(2) Subject to the provisions of sub-section (3) of section 41, any person whose name is for the time being borne on part II of the Central Register of Pharmacist, may practice Pharmacy in Indian medicine or Homoeopathy in any State, other than the State where he is enrolled on the State Register with the previous approval of the Government of the State where he intends to practice.

53. (1) If any person whose name is entered in the Central Register obtains any title, diploma or other qualification for proficiency in Pharmacy, which is a recognised qualification, he shall, on application made in this behalf in the prescribed manner, be entitled to have an entry stating such other title, diploma or other qualification made against his name in the Central Register either in substitution for or in addition to any entry previously made.

Registration of additional qualifications.

(2) The entries in respect of any such person in a State Register shall be altered in accordance with the alteration made in the Central Register of Pharmacist.

(3) Every person registered in the Central Register of Pharmacist shall notify any transfer of the place of his residence or practice to the Central Pharmacy Council and to the Board concerned within ninety days of such transfer, failing which his right to participate in the election of members to the Central Pharmacy Council or a Board shall be liable to be forfeited by order of the Central Government either permanently or for such period as may be specified therein.

CHAPTER VII

OFFENCES AND PENALTIES

54. (1) If any person whose name is not for the time being entered in the register of the State falsely pretends that it is so entered or uses in connection with his name or title any words or letters reasonably calculated to suggest that his name is so entered, he shall be punishable on first conviction with fine which may extend to five hundred rupees and on any subsequent conviction with imprisonment extending to six months or with fine not exceeding one thousand rupees or with both:

Penalty for falsely claiming to be registered.

Provided that it shall be a defence to show that the name of the accused is entered in the register of another State and that at the time of the alleged offence under this section an application for registration in the State had been made.

(2) For the purposes of this section—

(a) it shall be immaterial whether or not any person is deceived by such pretence or use as aforesaid;

(b) the use of the description “pharmacist”, “chemist”, “druggist”, “pharmaceutist”, “dispenser”, “dispensing chemist”, or any combination of such words or of any such word with any other word shall be deemed to be reasonably calculated to suggest that the person using such description is a person whose name is for the time being entered in the register of the State; and

(c) the onus of proving that the name of a person is for the time being entered in the register of a State shall be on him who asserts it.

Dispensing by
unregistered
persons.

55. (1) On or after such date as the State Government may by notification in the Official Gazette appoint in this behalf, no person other than a registered pharmacist under this Act shall, compound, prepare, mix or dispense any drug of Indian medicine or homoeopathy:

Provided that this sub-section shall not apply to the dispensing by a registered practitioner of medicine for his own patients.

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to six months, or with fine not exceeding rupees five thousand or with both.

Penalty for
contravention
of provisions
of section 16.

56. Any person who opens a Pharmacy College of Ayurveda, Siddha, Unani or Homoeopathy in contravention of the provisions of section 16 or admit students in such college or admit more students than permitted by the Central Pharmacy Council or open new or higher course of study in such contravention, shall be liable for an imprisonment which may extend to six months or a fine of up to rupees one lakh per students or both.

Cognizance
of offences.

57. (1) Cognizance of an offence punishable under sections 54 and 55 shall not be taken except upon complaint made by an order of the State Government or any officer authorised in this behalf by the State Government, or by order of the Executive Committee of the State Pharmacy Council.

(2) Cognizance of an offence punishable under section 56 shall not be taken except upon complaint made by an order of the Central Government or any officer authorised in this behalf by the Central Government, or by order of the Executive Committee of the Central Pharmacy Council.

CHAPTER VIII

MISCELLANEOUS

Information
to be
furnished by
Central
Pharmacy
Council and
publication
thereof.

58. (1) The Central Pharmacy Council shall furnish such reports, copies of its minutes, abstracts of its accounts, and other information to the Central Government as that Government may require.

(2) The Central Government may publish in such manner, as it may think fit, any report, copy, abstract or other information furnished to it under this section or under section 60.

Payment of
part of fees
to Central
Council.

59. The State Pharmacy Council shall before the end of June in each year pay to the Central Pharmacy Council a sum equivalent to one-fourth of the total fees realised by the State Pharmacy Council under this Act during the period of twelve months ending on the 31st day of March of that year.

Accounts and
audit of
Central
Pharmacy
Council.

60. (1) The Central Pharmacy Council shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, in accordance with such general directions as may be issued and in such form as may be specified by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Central Pharmacy Council shall be audited annually by the Comptroller and Auditor-General of India or any person authorised by him in this behalf and any expenditure incurred by him or any person so authorised in connection with such audit shall be payable by the Central Council to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person authorised by him in connection with the audit of the accounts of the Central Council shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of Government accounts, and in particular, shall have the right to demand the production of books of accounts, connected vouchers and other documents and papers.

(4) The accounts of the Central Pharmacy Council as certified by the Comptroller and Auditor-General of India or any person authorised by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Pharmacy Council which shall forward the same with its comments to the Central Government.

61. (1) The Central Pharmacy Council shall, in the discharge of its functions and duties under this Act be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time.

Directions by
Central
Government.

(2) The decision of the Central Government as to whether a question is one of policy or not shall be final.

62. (1) Whenever it is made to appear to the Central Government that the Central Pharmacy Council is not complying with any of the provisions of this Act, the Central Government may refer the particulars of the complaint to an appropriate agency or commission as it may deem fit and such commission or appropriate agency shall proceed to inquire in a summary manner and to report to the Central Government as to truth of the matters charged in the complaint and in case of any charge of default or of improper action being found to have been established, the commission or the agency shall recommend the remedies if any, which are in its opinion necessary.

Commission
of Inquiry.

(2) The Central Government may require the Central Pharmacy Council to adopt the measures so recommended within such time as having regard to the report of the commission or agency, it may think fit and if the Central Pharmacy Council fails to comply with any such requirement, the Central Government may take such steps as may seem necessary to give effect to the recommendations of the commission.

(3) A commission of inquiry shall have power to administer oaths, to enforce the attendance of witnesses and the production of documents and shall have all such other necessary powers for the purpose of any inquiry conducted by it as are exercised by a civil court under the Code of Civil Procedure, 1908.

5 of 1908.

63. (1) If the Central Government is of the opinion that the Central Pharmacy Council is unable to perform, or has persistently made default in the performance of the duty imposed on it by or under this Act or has exceeded or abused its powers, or has wilfully or without sufficient cause, failed to comply with any direction issued by the Central Government under section 61, the Central Government may, by notification in the Official Gazette supersede the Council for such period not exceeding one year as may be specified in the notification:

Power to
supersede
Central
Pharmacy
Council or
State
Pharmacy
Council.

Provided that before issuing a notification under this sub-section, the Central Government shall give a reasonable opportunity to the Central Pharmacy Council to show cause why it should not be superseded and shall consider the explanation and objections, if any, of the Central Pharmacy Council.

(2) Upon the publication of a notification under sub-section (1) superseding the Council,—

(a) all the members of the Council shall, notwithstanding that their terms of office had not expired, as from the date of supersession, vacate their offices as such members;

(b) all the powers and duties which may, by or under the provisions of this Act, be exercised or performed by or on behalf of the Central Pharmacy Council shall during the period of supersession, be exercised and performed by such person or persons as the Central Government may direct; and

(c) all property vested in the Central Pharmacy Council shall, during the period of supersession, vest in the Central Government.

(3) On the expiration of the period of the supersession specified in the notification issued under sub-section (1), the Central Government may—

(a) extend the period of supersession for such further period not exceeding six months at a time as it may consider necessary; or

(b) reconstitute the Central Pharmacy Council in the manner provided in section 3.

(4) Whenever it appears to the State Government that the State Pharmacy Council is not complying with any of the provisions of this Act, the State Government may likewise supersede the State Pharmacy Council and pass such order or take such action for the State Pharmacy Council as specified in sub-sections (2) and (3) for the Central Pharmacy Council.

Protection of
action taken
in good faith.

64. No suit, prosecution or other legal proceeding shall lie against the Government, the Central Pharmacy Council or a Board or any committee thereof or any officer or servant of the Government or the Central Pharmacy Council or the Board or the committee aforesaid for anything which is in good faith done or intended to be done under this Act.

Power to
make rules by
Central
Government.

65. (1) The Central Government may by notification in the Official Gazette make rules to carry out the purpose of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the manner in which election of the President to the Central Pharmacy Council shall be conducted;

(b) the manner in which election of the Members to the Central Pharmacy Council under clause (a) or clause (b) of sub-section (1) of section 3 shall be conducted;

(c) any other matter which is to be or may be prescribed under this Act.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to
make
regulations.

66. (1) The Central Pharmacy Council may, with the approval of the Central Government, by notification in the Official Gazette, make regulations to carry out the functions under this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for—

(a) the management of the property of the Central Pharmacy Council;

(b) the manner in which elections under this Chapter shall be conducted;

(c) the summoning and holding of meetings of the Central Pharmacy Council, the times and places at which such meetings shall be held, the conduct of business and the number of members necessary to constitute a quorum;

(d) the functions of the Executive Committee, the summoning and holding meetings thereof, the time and place at which such meeting shall be held, and the number of members necessary to constitute a quorum;

(e) the powers and duties of the President and Vice-President;

(f) the qualifications, the term of office and the powers and duties of the Registrar, Inspectors and other officers and employees of the Central Pharmacy Council, including the amount and nature of the security to be furnished by the Registrar or any other officer or employee;

(g) the manner in which the Central Register of Pharmacist shall be maintained and given publicity; and

(h) constitution and functions of the committees other than Executive Committee, the summoning and holding of meetings thereof, the time and place at which such meetings shall be held, and the number of members necessary to constitute the quorum.

(3) Until regulations are made by the Central Pharmacy Council, the President of the Council may, with the previous sanction of the Central Government, make such regulations under this section, as may be necessary, for carrying into effect the provisions of this Chapter, and any regulations so made may be altered or rescinded by the Central Pharmacy Council in exercise of its powers under this section.

(4) Every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.

67. (1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of Chapters IV, V and VII.

Power to
make rules by
State
Government.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the management of the property of the State Pharmacy Council, and the maintenance and audit of its accounts;

(b) the manner in which elections under Chapter IV shall be conducted;

(c) the summoning and holding of meetings of the State Pharmacy Council, the times and places at which such meetings shall be held, the conduct of business thereat and the number of members necessary to form a quorum;

(d) the powers and duties of the President and Vice-President of the State Pharmacy Council;

(e) the powers and duties of the Executive Committee of the State Pharmacy Council;

(f) the qualifications, the term of office and the powers and duties of the Registrar and other officers and servants of the State Pharmacy Council, including the amount and nature of the security to be given by the Treasurer;

(g) the qualifications, powers and duties of an Inspector;

(h) the particulars to be stated, and the proof of qualifications to be given, in applications for registration under Chapter V;

- (i) the conditions for registration under sub-section (1) of section 34;
 - (j) fees payable under Chapter V and the charge for supplying copies of the register;
 - (k) the form of certificates of registration;
 - (l) the maintenance of a register;
 - (m) the conduct of pharmacists and their duties in relation to medical practitioners, the public and the profession of pharmacy; and
 - (n) any other matters which is to be, or may be, prescribed under Chapters IV, V and VII.
- (3) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before the State Legislature.

STATEMENT OF OBJECTS AND REASONS

There is a long standing need for the regulation of the profession and practice of pharmacy in Indian medicine and Homoeopathy. The education and practice of pharmacy in Indian medicine and Homoeopathy was identified as a priority area by the Central Government in the IXth Five Year Plan.

2. The conference of the State Health Ministers on Indian Medicine and Homoeopathy in the meeting held in February 1997 and the National Convention on Homoeopathy dated 17th-18th November 1997 resolved that the Central Government should take adequate steps to introduce organised training courses to train the pharmacists in Indian medicine and Homoeopathy. These courses will give them an opportunity for professionalism in pharmacy and also enable them to undertake fundamental research and development of drugs in Indian medicine and Homoeopathy. This is also considered essential to bring standardisation in the field of manufacturing medicines.

3. In order to achieve the above object, the Indian medicine and Homoeopathy Pharmacy Bill, 2005 provides for constitution of a Central Pharmacy Council of Indian medicine and Homoeopathy which will bring uniformity and standardisation in education and practice of the Pharmacy in Indian medicine and Homoeopathy. Permission of Central Government will be necessary for opening a new college, to increase seats and start a new higher course of study of pharmacy in Indian medicine and Homoeopathy. Institutions admitting students without prior permission will be penalised. The proposed legislation also provides for maintaining a register of pharmacists in Indian medicine and Homoeopathy. Persons whose names are borne in the State register shall only be allowed to practice pharmacy in Ayurveda, Homoeopathy, Unani and Siddha after the enforcement of the proposed law. The pharmacy qualification granted by any university, board or other institutions in India which are included in the Schedule shall be the recognised pharmacy qualifications.

4. The Bill seeks to achieve the above objects.

ANBUMANI RAMADOSS.

Notes on clauses

Clause 1 relates to the short title, extent and commencement in the Act in different States.

Clause 2 provides for definitions of Board, Council, Examining Body or Faculty of Pharmacy of India.

Clause 3 deals with the constitution of the Central Pharmacy Council and the manner of its representation of members.

Clause 4 provides for incorporation of Central Pharmacy Council.

Clause 5 deals with the procedure of election of President and Vice-President and provides that the Council will have a President and two Vice-Presidents.

Clause 6 relates to mode of election to the Central Pharmacy Council.

Clause 7 provides for the qualification for being eligible for election.

Clause 8 provides for the term of office of President, Vice-President and members of Central Pharmacy Council.

Clause 9 prescribes the procedure of conducting the annual and general body meetings of Central Pharmacy Council.

Clause 10 requires that the Council shall from amongst its members constitute two Executive Committee, one for Indian medicine and another for Homoeopathy and such other committees to carry out the purposes of this Act.

Clause 11 requires the committee constituted under section 10 to meet at least twice in each year.

Clause 12 contains provisions relating to appointment of officers and other employees of Central Pharmacy Council and their remunerations.

Clause 13 relates to vacancies in the Central Pharmacy Council and Committees thereof not to invalidate acts, etc.

Clause 14 provides for Education regulations, to lay down the minimum standard of education, nature of study and training.

Clause 15 deals with recognition of pharmacy qualifications granted by certain institutions in India.

Clause 16 deals with permission for establishment of new pharmacy college, course of study, increase its admission capacity and involvement of Central Government for selection of Scheme and regulations, etc.

Clause 17 declares any qualification granted by pharmacy college established without the permission of the Central Government shall be invalid.

Clause 18 deals with recognition of pharmacy qualifications granted outside the territories.

Clause 19 deals with rights of persons possessing qualifications included in Schedule A and Schedule B to be enrolled on a State Register or the Central Register of Pharmacy.

Clause 20 deals with power to require information as to courses of study and examinations by University, Board or Pharmacy institutions in India.

Clause 21 contains provisions for appointment of Inspectors at examinations and inspection of Pharmacy institutions.

Clause 22 specifies provision of power of the pharmacy inspectors by which the recognition of the institution can be withdrawn.

Clause 23 provides for constitution of State Pharmacy Councils and provision of members.

Clause 24 provides for inter-State agreements between two or more States for composition of Joint State Pharmacy Council.

Clause 25 provides for constitution of Joint State Pharmacy Councils.

Clause 26 relates to incorporation of State Pharmacy Council and it shall be a body corporate by such name as may be notified by the State Government in the Official Gazette.

Clause 27 refers to the election and tenure of President and Vice-President of State Pharmacy Council.

Clause 28 deals with the mode of elections and confers the power to State Government to decide election dispute.

Clause 29 says about the term of office and casual vacancies of members to State Pharmacy Council.

Clause 30 deals with the remuneration and allowances of the officers and staff of the State Pharmacy Council.

Clause 31 provides that the State Pharmacy Council shall constitute two executive committees, one for the Indian medicine and another for Homoeopathy.

Clause 32 provides that the vacancies in the State Pharmacy Council and Committee thereof not to invalidate acts, etc.

Clause 33 provides that the State Pharmacy Council shall furnish reports, copies of its minutes of the meetings of the Executive Committee and abstracts of its accounts to the State Government who in turn will send them to the Central Government from time to time.

Clause 34 says that the State Pharmacy Council as soon as its constitution assume the duty of maintaining a register of pharmacists in Indian medicine and Homoeopathy for the State.

Clause 35 provides that the State Government shall by notification in the Official Gazette constitute a Registration Tribunal for preparation of first register of Pharmacists in Indian medicines and Homoeopathy.

Clause 36 deals with qualifications for entry on first register.

Clause 37 deals with qualifications for subsequent registration.

Clause 38 relates to scrutiny of application for registration.

Clause 39 provides for retention of a name on the register after the 31st day of December of the year following the year in which the name is first entered on the register, there shall be an annual renewal fee.

Clause 40 provides that a registered pharmacist shall on payment of the prescribed fee be entitled to have entered in the register any further degrees or diplomas in pharmacy or pharmaceutical chemistry, which he may obtain.

Clause 41 relates to removal of name from the register.

Clause 42 says that the State Pharmacy Council may at any time for reasons appearing to it sufficient order that upon payment of the prescribed fee the name of a person removed from the register shall be restored thereto.

Clause 43 relates to bar of other jurisdiction, that is, no order refusing to enter a name on the register or removing a name from the register shall be called in question in any Court.

Clause 44 relates to issue of duplicate certificates of registration.

Clause 45 relates to printing of register and evidentiary value of entries therein.

Clause 46 deals with appointment of inspectors by the State Pharmacy Council with the previous approval of the State Government.

Clause 47 relates to maintenance of Central Register of pharmacist of Indian medicine and Homoeopathy.

Clause 48 deals with the provision of supply of copies of State Register of Pharmacists.

Clause 49 relates to registration in the Central Register of Pharmacists.

Clause 50 deals with professional conduct of pharmacists of Indian medicine and Homoeopathy.

Clause 51 deals with the provision of removal of names from the Central Register of Pharmacists.

Clause 52 deals with the privileges of persons who are enrolled on the Central Register of pharmacists of Indian medicine and Homoeopathy.

Clause 53 deals with registration of additional qualifications of the pharmacists.

Clause 54 deals with the provision of penalty for falsely claiming to be registered.

Clause 55 deals with dispensing by unregistered persons.

Clause 56 deals with penalty for contravention of the provisions of section 16.

Clause 57 deals with cognizance of offences.

Clause 58 relates to information to be furnished by the Central Pharmacy Council and publication thereof to the Central Government.

Clause 59 says that the State Pharmacy Council shall before the end of June in each year pay to the Central Pharmacy Council a sum equivalent to one fourth of the total fees realised by the State Pharmacy Council under this Act during the period of one month.

Clause 60 deals with the provision of maintenance of accounts and audit of Central Pharmacy Council.

Clause 61 says that the Central Pharmacy Council shall in the discharge of its functions and duties under this Act be bound by such directions on questions of policy as the Central Government may give in writing from time to time.

Clause 62 deals with the provision of a Commission of Inquiry whenever it is made to appear to the Central Government that the Central Pharmacy Council is not complying with any of the provisions of this Act.

Clause 63 deals with the provision of power to supersede the Central Pharmacy Council or State Pharmacy Council.

Clause 64 provides for protection of action taken in good faith.

Clause 65 provides for the powers of the Central Government to make rules to carry out the purposes of the Act.

Clause 66 confers the power to make regulations by the Central Pharmacy Council with the approval of the Central Government by notification in the Official Gazette consistent with this Act.

Clause 67 confers the State Government the power to make rules.

FINANCIAL MEMORANDUM

Legislation for the regulation of education and practice of pharmacy in Indian Medicine and Homoeopathy involves expenditure that arises for setting up of the proposed Council.

2. The expenditure for setting up of the Central Pharmacy Council in terms of rental, equipment, salary establishment, expenditure, furniture, notification, advertisements, postages, TA/DA meeting expenditure, etc., will be approximately Rs. 45 lakhs during the first year. The Council needs to have an office space of at least 6000 sq. mt. with a staff of OSD/Registrar-cum-Secretary, Office Superintendent /Adm. Officer, Accounts Officer and few Group 'C' and 'D' staffs. This expenditure approximately estimated at Rs.45 lakhs during the first year of set up, will be fully funded by Government of India. The Council will be fully funded by Government of India during the initial years of its set up for meeting all its expenditure and the moment the Council starts raising its resources, an equal amount so raised by the Council will be deducted by Government of India from its grant-in-aid. It is expected that the Central Pharmacy Council will become self-sustaining by the end of 11th Plan (2007—12) in the year 2012.

3. The Central Pharmacy Council shall generate funds by way of Grants from the Central Government, Inspection fees charged from the pharmacy institutions of Indian medicine and Homoeopathy, Registration fee from pharmacists, Sale of publications, Recognition fees to be charged from new institutions and for increasing the seats, etc. The State and Joint Pharmacy Council shall be assisted by the States concerned and also generate their own resources. They shall also provide one fourth share of the receipts to the Central Pharmacy Council to meet the expenditure on its activities.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The power to make rules and regulations to carry out the purposes of this Bill is contained in several provisions of the Bill.

2. Clause 14 of the Bill empowers the Central Pharmacy Council to make the education regulations prescribing minimum standard of education required for qualification as a Pharmacist in Indian medicine or Homoeopathy and other incidental matters. Clause 65 empowers the Central Government to make rules to carry out the purposes of this Act. Sub-clause (2) of this clause enumerates the matter on which rules may be made by the Central Government. Clause 66 empowers the Central Pharmacy Council to make regulations. The matters, in respect of which such regulations may, in particular, be made, have been enumerated in sub-clause (2) of clause 65.

3. The State Government has been empowered to make rules for different purposes. Some of the important provisions of the Bill in this regard are clauses 35, 36, 37, 39, 42 and 67. The matter on which rules may be made by the State Government are enumerated in sub-clause (2) of clause 67.

4. The matters, in respect of which rules and regulations may be made, are generally matters of procedure and administrative detail and it is not practicable to provide for them in the Bill. The delegation of legislative power is, therefore, of normal in character.

YOGENDRA NARAIN,
Secretary-General.